

# Liquidator's Progress Report

# S.192

Pursuant to Sections 92A and 104A and 192 of the Insolvency Act 1986

To the Registrar of Companies

Company Number

00153553

Name of Company

Balls Brothers Limited

I / We

M N Cropper  
The Zenith Building  
26 Spring Gardens  
Manchester  
M2 1AB

C P Holder  
10 Fleet Place  
London  
EC4M 7RB

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Palm Grove House, PO Box 4571  
Tortolla  
British Virgin Islands  
VG1110

the liquidator(s) of the company attach a copy of my/our Progress Report under section 192 of the Insolvency Act 1986

The Progress Report covers the period from 08/05/2012 to 07/05/2013

Signed 

Date 6.6.13

Zolfo Cooper  
The Zenith Building  
26 Spring Gardens  
Manchester  
M2 1AB

Ref 00583-002/CWIL/EXP/JWOR/VQC/SA



**Joint Liquidators'  
Progress Report  
for the period  
8 May 2012 to  
7 May 2013**

**Balls Brothers Limited  
In Liquidation**

6 June 2013

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## 1 Statutory information

- 1.1 Nick Cropper, Peter Holder and Stuart Mackellar were appointed Joint Liquidators of Balls Brothers Limited (the Company) on 8 May 2012 following the filing of Form 2.34B - Notice of move from Administration to Creditors Voluntary Liquidation, with the Registrar of Companies.
- 1.2 The Liquidation is being handled by Zolfo Cooper's Manchester office, situated at The Zenith Building, 26 Spring Gardens, Manchester M2 1AB
- 1.3 The Company operated wine bar and restaurant businesses and a wine merchant, predominately under the Balls Brothers brand and traded from 14 locations across central London. A table of the trading addresses and site names has been provided to creditors during the preceding Administration.
- 1.4 The registered office of the Company has been changed to c/o Zolfo Cooper, The Zenith Building, 26 Spring Gardens, Manchester M2 1AB and its registered number is 00153553.
- 1.5 As approved at a meeting of the creditors committee, any act required or authorised to be done by the Joint Liquidators may be done by all or any one or more of them

## 2 Progress of the Liquidation

- 2.1 This report should be read in conjunction with reports produced during the preceding Administration of the Company, the most recent of which is dated 4 May 2012.
- 2.2 The Joint Liquidators' Receipts and Payments Account for the period 8 May 2012 to 7 May 2013, is attached at Appendix A. It should be noted that figures from the directors' statement of affairs of the Company, as at the date of insolvency, are not provided as the asset categories detailed therein differ significantly from the class of assets realised in the Liquidation to date, therefore, a meaningful comparison cannot be made.
- 2.3 As at the date of this report, all costs incurred have been discharged

### Liquidation realisations

- 2.4 Funds totalling £937,184 were transferred into the Liquidation from the preceding Administration. During the course of the year, a refund of £2,539 has been received in respect of bank charges incurred prior to the Joint Liquidators' appointment, and unclaimed third party wine stock has been sold, realising £6,399.
- 2.5 In addition, bank interest of £4,217 has accrued on account.

### Intercompany position

- 2.6 The Company is the parent entity and 100% shareholder of Lewis and Clarke Limited (L&C), a subsidiary which carried out similar trading activities as the Company, and which is also in Liquidation

- 2.7 During the preceding Administration, the Company submitted a contingent unsecured claim against L&C. The claim was provisionally agreed in the sum of £1,199,880 and the Company received a dividend payment of £839,916, representing a return of 70 pence in the pound. However, in the period since the dividend receipt, and following input from the Company's auditors, it has become apparent that the historic intercompany loan account balances between the two entities cannot be adequately verified. As a result, the intercompany loan account balance has been agreed at nil.
- 2.8 There are sufficient funds available in the Liquidation of L&C to enable a significant return to its shareholder, namely the Company, as all unsecured creditors have been paid in full. The Company will not, therefore, repay the dividend received from L&C but reclassify it as a shareholder distribution.

### **Distribution prospects**

- 2.9 Since commencement of the Liquidation, 98 unsecured creditor claims, totalling £888,604 have been agreed. There are a further six claims still being adjudicated and which total £265,335. As detailed above, the Company is expected to receive a significant return from the Liquidation of L&C. Once the final quantum of the return from L&C is known, a first and final distribution to the Company's unsecured creditors will be made. Further details of the likely dividend level are provided at section 6 of this report.

## **3 Assets still to be realised**

- 3.1 The majority of the Company's assets have now been realised. It is anticipated that the only further recovery will be by virtue of the distribution from L&C.

## **4 Investigations**

- 4.1 The Joint Liquidators conducted investigations into the conduct of the directors and transactions entered into prior to the Company's insolvency, as required by the Company Directors Disqualification Act 1986, and Statement of Insolvency Practice 2 - Investigations by Office Holders in Administrations and Insolvent Liquidations. Based upon the outcome of the investigations, there were no matters identified that required further action.

## **5 Joint Liquidators' remuneration**

- 5.1 The basis of the Joint Liquidators' remuneration was approved during the preceding Administration as being by reference to the time properly spent by the Joint Liquidators and their staff on matters arising in the Liquidation.
- 5.2 The Joint Liquidators' time costs for the period 8 May 2012 to 7 May 2013 are £43,253. This represents 236 hours at an average rate of £183 per hour. A Time Analysis for the period, which provides details of the costs incurred by activity and by staff grade, is attached at Appendix B.

- 5.3 Principal areas of activity during the period are discussed in further detail below;
- **Administration and planning** - time has been incurred implementing and monitoring the initial case strategy, complying with statutory duties and performing general administrative work. Case related treasury and support time is also recorded here.
  - **Investigations** - time has been incurred conducting investigations into the directors' conduct together with the Company's dealings prior to the appointment of the Joint Liquidators and the submission of a report to the Department for Business, Innovation and Skills pursuant to the Company Directors Disqualification Act 1986.
  - **Realisation of assets** - Time recorded under this category has principally been incurred in finalising the sale of the unclaimed third party stock and entering into correspondence regarding the refund of bank charges.
  - **Creditors** - time has been incurred convening meetings of, and reporting to, the creditors' committee and providing telephone updates to unsecured creditors. Time has also been spent agreeing unsecured creditor claims and distributing the dividend to the preferential creditors.
- 5.4 A copy of 'A Creditors' Guide to Liquidators' Fees' can be downloaded from Zolfo Cooper's creditor portal (<http://www.zcinfoportal.com>) - click on **Creditors' Guide to Fees** in the menu on the left side of the screen. If you would prefer this to be sent to you in hard copy please contact the Joint Liquidators and they will forward a copy to you.
- 5.5 To date, disbursements of £749 have been drawn. The Joint Liquidators are yet to draw any fees during this Liquidation.
- 5.6 Additional information in relation to the Joint Liquidators' policy on staffing, the use of sub-contractors, payment of disbursements and details of current charge out rates by staff grade are provided at Appendix C.

## 6 Estimated outcome for creditors

### Preferential creditors

- 6.1 The Joint Liquidators received preferential creditor claims totalling £2,205. These claims were discharged in full on 7 July 2012.

### Unsecured creditors

- 6.2 As detailed in section 2 of this report, the Company is expected to receive significant funds following the distribution from L&C. It is currently anticipated that the level of funds received will be sufficient to enable a dividend, which could be 100 pence in the pound, to be paid to the Company's unsecured creditors.

## 7 Creditors' rights

- 7.1 Within 21 days of the receipt of the report, a secured creditor, or an unsecured creditor (with the agreement of at least 5% of the value of the unsecured creditors) may request in writing that the Joint Liquidators provide further information about their remuneration or expenses which have been itemised in this progress report.

- 7.2 Any secured creditor, or an unsecured creditor (with the concurrence of at least 10% of the value of unsecured creditors) may, within eight weeks of receipt of this progress report, make an application to court on the grounds that the basis fixed for the Joint Liquidators' remuneration is inappropriate, or that the remuneration or the expenses incurred by the Joint Liquidators as set out in this progress report are excessive

## 8 Next report

- 8.1 The Joint Liquidators are required to provide a progress report within two months of the end of the next year of the Liquidation. If the Liquidation has been completed before then a final meeting will be called, and a draft report circulated before that meeting.

Yours faithfully



Anne O'Keefe  
For Stuart Mackellar  
Joint Liquidator

Encs

**Receipts and Payments Account for the period  
8 May 2012 to 7 May 2013**
**Appendix A**

	£
<b>Receipts</b>	
Transfer from Administration	937,184
Bank charges refund	2,539
Unclaimed stock sales	6,399
Bank interest	4,217
	<u>950,339</u>
<b>Payments</b>	
Joint Administrators' final fees	322,187
Joint Administrators' final category 1 disbursements	
Bordereau costs	394
Travel and subsistence costs	2,834
Telephone charges	413
Stationery and postage	10
Company searches	34
Storage costs	148
Sundry costs	1,275
Joint Administrators' final category 2 disbursements	
Printing and photocopying	371
Administration legal fees	74,365
Final Administration trading liabilities	21,879
Agent's/Valuer's fees	5,739
Employee agent's fees	1,470
Insurance settlement to third parties	2,579
Professional fees	1,856
Irrecoverable VAT	1,634
Joint Liquidators' category 1 disbursements	
Storage costs	72
Statutory advertising	77
Stationery and postage	494
Bordereau costs	106
Bank charges	21
	<u>(437,958)</u>
<b>Distributions</b>	
Preferential dividend - 100p in the pound 7 July 2012	2,205
	<u>(2,205)</u>
<b>Balance</b>	<u>510,176</u>
<b>Represented by</b>	
Interest bearing account	509,588
VAT receivable/payable	588
	<u>510,176</u>



## Time Analysis for the period 8 May 2012 to 7 May 2013 Appendix B

	Employee grade (hours)				£		
	Partner/ director	Senior associate/ Associate director	Associate/ analyst	Junior analyst/ support	Total hours	Total cost	Average rate per hour
<b>Administration and planning</b>							
Planning			0.9		0.9	207.00	230
Strategy and control	11.6	6.7	13.9	19.0	51.2	11,688.00	228
Statutory duties	1.3		3.6	1.4	6.3	1,434.50	228
Case administration	1.4	1.0	4.0	1.0	7.4	1,886.00	255
Accounting and treasury	1.5	0.7	8.4	39.6	50.2	6,189.50	123
Internal documentation	0.3	0.6	2.9	7.1	10.9	1,737.50	159
<b>Investigations</b>							
Director conduct reports	-	0.1	0.5	0.3	0.9	176.00	196
<b>Realisation of assets</b>							
Asset identification and valuation			0.2	4.0	4.2	438.00	104
Sale of assets		0.9	0.7		1.6	437.00	273
Dealing with third party assets		0.5	0.4		0.9	247.00	274
<b>Creditors</b>							
Creditor claims			3.1	-	3.1	713.00	230
Creditor litigation			0.4	-	0.4	92.00	230
Creditor strategy		0.6	0.4		1.0	278.00	278
Reporting to creditors			2.3		2.3	529.00	230
Creditor meetings			1.0		1.0	230.00	230
Creditors committee	0.3	14.8	5.0	1.3	21.4	5,984.50	280
Preferential creditors	0.3		0.7	0.8	1.8	352.50	196
Unsecured creditors	6.0	2.2	7.5	52.5	68.2	10,230.00	150
Employees			0.7	0.7	1.4	238.00	170
Shareholders and other stakeholders				1.1	1.1	121.00	110
<b>Totals</b>	<b>22.7</b>	<b>28.1</b>	<b>56.6</b>	<b>128.8</b>	<b>236.2</b>	<b>43,252.50</b>	<b>183</b>

## Additional information in relation to the Joint Liquidators' remuneration pursuant to Statement of Insolvency Practice 9

## Appendix C

### 1 Policy

Detailed below is Zolfo Cooper's policy in relation to:

- staff allocation and the use of sub-contractors,
- professional advisors, and
- disbursements.

#### 1.1 Staff allocation and the use of sub-contractors

The Joint Liquidators' general approach to resourcing their assignments is to allocate staff with the skills and experience to meet the specific requirements of the case

The case team will usually consist of a partner, an associate director or senior associate, an associate and an analyst. The exact case team will depend on the anticipated size and complexity of the assignment and the experience requirements of the assignment. On larger, more complex cases, several staff at all grades may be allocated to meet the demands of the case. The Joint Liquidators' charge-out rate schedule below provides details of all grades of staff and their experience level.

With regard to support staff, time spent by treasury in relation to specific tasks on an assignment is charged but secretarial time is only recovered if a large block of time is incurred, eg report compilation and distribution.

#### 1.2 Professional advisors

On this assignment the Joint Liquidators have used the professional advisors listed below. The Joint Liquidators have also indicated alongside, the basis of their fee arrangement with them, which is subject to review on a regular basis

Name of professional advisor	Basis of fee arrangement
TLT Solicitors LLP (legal advice)	Hourly rate and disbursements
Twice2Much Limited (Rates revaluations)	Fixed fee
Willis Limited (insurance)	Risk based premium
Edwards Symmons LLP (valuation and disposal advice)	Hourly rate and percentage of realisations

The Joint Liquidators' choice was based on their perception of the professional advisors' experience and ability to perform this type of work, the complexity and nature of the assignment and the basis of their fee arrangement with them

#### 1.3 Disbursements

Category 1 disbursements do not require approval by creditors. Category 1 disbursements may include external supplies of incidental services specifically identifiable to the case eg

postage, case advertising, invoiced travel and external printing, room hire and document storage. Any properly reimbursed expenses incurred by the Joint Liquidators and their staff will also be chargeable.

Category 2 disbursements do require prior approval by creditors before they are paid. If they are incurred, they will be drawn in accordance with the resolution approved by the creditors' committee. Category 2 disbursements that may be incurred are as follows.

- Photocopying - charged at the rate of ten pence per sheet for notifications and reports to creditors and other copying.
- Printing - charged at the rate of ten pence per sheet for black and white printing and 15 pence per sheet for colour
- Business mileage for staff travel, charged at the rate of 45 pence per mile

## 2 Charge-out rates

A schedule of Zolfo Cooper charge-out rates for this assignment effective from 1 April 2013 is detailed below, together with those applicable prior to that date. Time is charged by partners and case staff in units of six minutes.

Description	Rates from	Description	Rates pre
	1 April 2013		1 April 2013
	£		£
Partner 1*	440	Partner 1*	440
Partner 2*	395	Partner 2*	395
Director	345	Director	345
Associate director*	310	Senior associate 1*	310
Senior associate	280	Senior associate 2*	280
Associate	230	Associate	230
Analyst	210	Analyst	210
Junior analyst	110	Junior analyst	110
Senior treasury associate	170	Senior treasury associate	170
Treasury associate	110	Treasury associate	110
Treasury analyst	75	Treasury analyst	75
Support	65	Support	65

**\*Key**

*Partner 1 - partners with three or more years' experience at partner level*

*Partner 2 - partners with fewer than three years' experience at partner level*

*Promotion from senior associate to associate director from 1 April 2013 is on the basis of performance and experience. Prior to that, the distinction from senior associate 2 to senior associate 1 was made for staff with two or more years' experience at senior associate level.*